



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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## General Notice

### OMUTHIYA TOWN COUNCIL

No. 414

2019

#### INFORMAL TRADING AND BUSINESS REGISTRATION REGULATIONS: LOCAL AUTHORITIES ACT, 1992

Under section 94 of the Local Authorities Act, 1992 (Act No. 23 of 1992), the Town Council of Omuthiya, after consultation with the Minister of Urban and Rural Development, has made the regulations set out in the Schedule.

**K. UUSIKU**  
**CHAIRPERSON**  
**BY ORDER OF THE COUNCIL**

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CHAPTER 1  
INTRODUCTORY PROVISIONS

**Definitions**

1. In these regulations a word or expression to which a meaning has been assigned in the Act has that meaning and unless the context indicates otherwise -

“authorised official” means a staff member of the Council authorised by the Council to administer, enforce and implement these regulations;

“business” means any profession, occupation, trade, undertaking, service or activity conducted for gain;

“business registration certificate” means a business registration certificate issued in terms of regulation 25;

“business premises” means a premises used or intended to be used for purposes of conducting a business;

“certificate of fitness” means a certificate of fitness issued in terms of regulation 21;

“Council” means the Town Council of Omuthiya;

“environmental health officer” means a person appointed by the Council as an environmental health officer;

“foodstuff” means foodstuff as defined in section 1 of the Foodstuffs, Cosmetics and Disinfectants Ordinance, 1979 (Ordinance No. 18 of 1979);

“goods” includes any movable property, foodstuff, clothing, cosmetics, magazines, merchandise or living thing for sale;

“health certificate” means a certificate issued to an informal trader trading in foodstuff in terms of regulation 11;

“informal trader” means a person conducting informal trading;

“informal trading” means the selling of goods or services -

- (i) in or alongside a street, a public road or a public place; or
- (ii) at special events referred to in regulation 8;

“informal trading registration certificate” means a certificate issued to an informal trader in terms of regulation 3;

“inspector” means a staff member of the Council authorised by the Council to conduct inspections;

“local authority area” means the local authority area of Omuthiya;

“noxious business” means -

- (a) a trade or business determined to be a noxious trade or offensive trade or business in terms of the applicable town planning scheme; or
- (b) a business determined by the Council to be a noxious business in terms of regulation 22;

“premises” means a building, structure or land, or part of a building structure or land, or a motor vehicle, vessel, aircraft or conveyance;

“property” in relation to an informal trader, includes goods, a motor vehicle or structure used or intended to be used in connection with informal trading;

“public place” means a square, park, recreation ground or open space which is vested in the Council or to which the public has the right of use or which is shown on the general plan or diagram of a township and has been provided for the use of the public;

“public road” means a public road as defined in the Road Traffic and Transport Act, 1999 (Act No. 22 of 1999);

“sell” means -

- (a) display, offer, market or prepare for sale;
- (b) barter, exchange or hire out;
- (c) store with a view to sell, or
- (d) provide a service for reward;

“street” means a street as defined in the Road Traffic and Transport Act, 1999 (Act No. 22 of 1999); and

“the Act” means the Local Authorities Act, 1992 (Act No. 23 of 1992).

## CHAPTER 2 INFORMAL TRADING

### PART 1 REGISTRATION OF INFORMAL TRADERS

#### **Prohibition on informal trading**

- 2. (1) A person may not, in the local authority area -
  - (a) conduct informal trading unless he or she is in possession of an informal trading certificate;

- (b) employ a person for purposes of informal trading unless that person is in possession of an assistant informal trading certificate; or
- (c) conduct informal trading in a prohibited area.

(2) A person who contravenes or fails to comply with subregulation (1)(a), (b) or (c) commits an offence and is liable on conviction to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months.

### **Application for informal trading or assistant informal trading certificate**

**3.** (1) An application for an informal trading certificate or an assistant informal trading certificate must be made to the authorised official on an application form determined by the Council.

(2) An application in terms of subregulation (1) must be accompanied by a non-refundable application fee determined by Council under section 30(1)(u) of the Act.

(3) Where the applicant contemplated in subregulation (1) intends to sell foodstuff, the application for registration must be accompanied by a health certificate issued in terms of regulation 11.

(4) On receipt of the application in terms of subregulation (1), the authorised official must consider the application and may -

- (a) request the applicant to provide more information within a specified time;
- (b) grant the application, with or without conditions, and issue to the applicant an informal trading certificate or an assistant informal trading certificate in the form determined by the Council; or
- (c) refuse the application and give written reasons.

(5) The authorised official must inform the applicant contemplated in subregulation (1) of the decision made in terms of subregulation (4) within 30 days of receipt of the application.

### **Display and validity of certificates**

**4.** (1) An informal trading certificate must -

- (a) specify the area or place where the informal trading must be conducted;
- (b) specify the goods, services or the class of goods or services, which the holder of the informal trading certificate is entitled to sell;
- (c) at all times be kept by the person in whose name it is issued on his or her person or at the area or place where the informal trading is conducted; and
- (d) contain the period of validity of the certificate.

(2) An informal trading certificate or an assistant informal trading certificate issued in terms of regulation 3 is valid for a period of 12 months.

**Renewal of informal trading or assistant informal trading certificates**

5. (1) The holder of the informal trading certificate or assistant informal trading certificate may apply for the renewal of the certificate to the authorised official 30 days before the expiry of the certificate.

(2) The provisions of regulations 2, 3 and 4 apply with necessary changes to the renewal of an informal trading certificate or assistant informal trading certificate.

**Prohibition on transfer of informal trading certificate**

6. An informal trading certificate or assistant informal trading certificate is not transferable and only the person in whose name it was issued is entitled to conduct informal trading by means of the certificate.

**Reconsideration of application**

7. (1) If an application for an informal trading certificate or an assistant informal trading certificate is refused, the applicant may, within 60 days of receipt of the notice referred to in regulation 3(5) -

- (a) appear before an authorised official to present his or her case either in person or through a representative; or
- (b) make representations in writing to the authorised official,

to show cause why his or her application must be granted by the authorised official.

(2) After hearing the applicant or the applicant's representative or after receipt of the written representations made by the applicant in terms of subregulation (1), the authorised official must -

- (a) reconsider the application and make a decision in accordance with regulation 3(4); and
- (b) within a period of 30 days, after the hearing or receipt of the written representations, in writing inform the applicant of his or her decision.

**Temporary informal trading**

8. (1) A person who intends to conduct informal trading on a temporary basis or for a special event including but not limited to cultural events, music festivals, promotional events, filming activities, religious events and sports events must apply to the authorised official for the issuing of a temporary informal trading certificate.

(2) On receipt of an application in terms of subregulation (1) the authorised official must consider the application and the authorised official may -

- (a) grant the application, with or without conditions, and issue to the applicant a temporary informal trading certificate;
- (b) request the applicant to provide more information within a specified period; or
- (c) refuse the application and give written reasons.

(3) A person who contravenes or fails to comply with subregulation (1) commits an offence and is liable on conviction to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months.

### **Change of address**

9. If a holder of an informal trading certificate or assistant informal trading certificate changes his or her residential address, the holder must provide the authorised official with full particulars of the new address within 14 days after the change.

## PART 2 INFORMAL TRADING

### **Production of informal trading or assistant informal trading certificate**

10. (1) An informal trader must identify himself or herself and produce his or her informal trading certificate, assistant informal trading certificate or temporary trading certificate for inspection when required to do so by a member of the Namibian Police Force, an authorised official or any person with whom business is transacted or is sought to be transacted.

(2) A person who contravenes or fails to comply with subregulation (1) commits an offence and is liable on conviction to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months.

### **Trading in foodstuff**

11. (1) An informal trader who intends to sell foodstuff for human consumption must, in addition to complying with regulations 2 to 9, -

- (a) in writing apply to the environmental health officer for a health certificate; and
- (b) provide the environmental health officer with the description of the premises where he or she intends to sell foodstuff.

(2) The environmental health officer must carry out an inspection of the premises contemplated in subregulation (1) to determine whether it complies with the applicable health and safety laws.

(3) The informal trader contemplated in subregulation (1) must pay an inspection fee as determined by the Council in terms of section 30(1)(u) of the Act.

(4) On receipt of the application in terms of subregulation (1), the authorised official must consider the application and may -

- (a) request the applicant to provide additional information within a specified time;
- (b) grant the application, with or without conditions, and issue to the applicant a health certificate; or
- (c) refuse the application and give written reasons.

(5) The authorised official must inform the applicant contemplated in subregulation (1) of the decision made in terms of subregulation (4) within 30 days of receipt of the application.

**Prohibited conduct**

**12.** (1) The holder of an informal trading certificate, assistant informal trading certificate or a temporary informal trading certificate may not during the course of his or her informal trading -

- (a) place or stack his or her property in such a manner that it constitute a public nuisance or danger to any person;
- (b) obstruct access to a fire hydrant;
- (c) attach any object by any means on any building, structure, monument, pavement, tree, parking meter, lamppost, telegraph-pole, telephone booth, mail-box, traffic sign, bench or any other similar object in or on a public road or public place;
- (d) light a fire in any area where it may cause a public nuisance;
- (e) sleep overnight at the place where he or she conducts informal trading; or
- (f) display his or her property and goods on or in premises unless he or she is in possession of the written consent of the owner, lawful occupier or person in control of the premises.

(2) The holder of the informal trading certificate, assistant informal trading certificate or a temporary informal trading certificate may not trade in a manner so as to -

- (a) obstruct access to any street fixture or any other facility intended for the use of the general public;
- (b) obstruct the visibility of a display window on a business premises;
- (c) obstruct access to an entrance to or an exit from a premises or an automated teller machine;
- (d) obstruct access to a pedestrian crossing;
- (e) obstruct a parking area;
- (f) obstruct a pedestrian using a sidewalk which is a portion of a verge intended for exclusive use by pedestrians;
- (g) cause an obstruction in or on any street;
- (h) limit access to parking bays, loading bays or other facilities relating to traffic;
- (i) obscure any road traffic sign erected in terms of any road traffic laws applicable in the local authority area;
- (j) in any way interfere with any motor vehicle which may be parked alongside such place where the trading is conducted; or
- (k) damage or deface the surface of any public road, public place or public or private property.



(3) A person who contravenes or fails to comply with subregulation (1) or (2) commits an offence and is liable on conviction to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months.

### **Cleanliness**

**13.** (1) The holder of the informal trading certificate, assistant informal trading certificate or a temporary informal trading certificate -

- (a) must keep the area or site occupied for the purpose of carrying on informal trading in a clean and sanitary condition;
- (b) must keep himself or herself clean at all times;
- (c) must keep his or her goods and property in a clean and sanitary condition;
- (d) must properly dispose of litter generated during the informal trading in a refuse container supplied by the Council and may not accumulate, dump, store, or deposit or cause or permit to be accumulated, dumped, stored or deposited, any litter on or in premises, public road or public place;
- (e) may not dispose of litter in a place not intended for the disposal of litter;
- (f) must in the case of an informal trader trading in foodstuffs take precautions as may be necessary to prevent -
  - (i) the spilling of fat, oil or grease in a manner that it cause a nuisance; and
  - (ii) smoke, fumes or odours emanating from informal trading activities which may constitute a public nuisance; and
- (g) must at the request of an authorised official or member of the Namibia Police Force move his or her goods or property so as to permit the cleaning of the surface of the area where he or she is trading.

(2) A person who contravenes or fails to comply with subregulation (1) commits an offence and is liable on conviction to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months.

### **Designation of places and times for informal trading**

**14.** (1) The Council may by resolution -

- (a) set apart and demarcate stands for purposes of informal trading in the local authority area; and
- (b) declare any place or area in the local authority area as a place or area where informal trading is prohibited;

(2) The Council may by way of signs or markings indicate -

- (a) specified places, goods or services in respect of which informal trading is prohibited;
- (b) any restriction against informal trading; and

- (c) times and hours of informal trading.

PART 3  
IMPOUNDING OF GOODS AND PROPERTY

**Removal and impounding**

15. (1) Where a person is conducting informal trading -

- (a) in a prohibited area; or  
(b) without an informal trading certificate, assistant informal trading certificate or a temporary informal trading certificate,

the authorised official must give 24 hours written notice to that person to stop conducting informal trading.

(2) If the person contemplated in subregulation (1) fails to comply with the notice issued in terms of that subregulation, the authorised official or member of the Namibia Police Force may take necessary steps to prevent unauthorised informal trading including the removal of that person.

(3) An authorised official or member of the Namibia Police Force may remove and impound goods or property -

- (a) which he or she reasonably suspects is intended to be used or has been used in connection with informal trading;  
(b) found at a place where informal trading is prohibited; or  
(c) which have been abandoned.

(4) An authorised official or member of the Namibia Police Force acting in terms of subregulation (3) must, except where goods or property has been abandoned, issue to the informal trader a receipt in respect of any goods or property the authorised official or member of the Namibia Police Force has removed and impounded and the receipt must -

- (a) specify the goods or property in detail;  
(b) be signed by the authorised official; and  
(c) state the conditions for the release of the impounded goods or property;

(5) An authorised official or member of the Namibia Police Force acting in terms of subregulation (3) must -

- (a) take proper care of goods or property removed and impounded in terms of this regulation;  
(b) deliver the goods or property removed and impounded in terms of this regulation to a place determined by the Council; and  
(c) detail all expenses incurred during the removal and impounding of goods or property in terms of this regulation.

(6) The owner of goods or property which have been removed and impounded under subregulation (4) is liable for any reasonable expenses incurred by the Council in respect of the removal and impounding and the Council may keep goods and property in its possession until all such expenses have been paid.

#### **Disposal of impounded perishable goods**

16. (1) The owner of perishable goods impounded in terms of regulation 15, may within a period of 24 hours from the time such goods have been impounded, apply in writing or in person to the authorised official for the return of such goods and present the relevant receipt issued to him or her in terms of regulation 15(4).

(2) Where the owner of the perishable goods fails to claim his or her goods within 24 hours from the date of impoundment, the Council may sell such goods in terms of regulation 18.

#### **Disposal of non-perishable goods or property**

17. (1) The owner of goods or property impounded under regulation 15, excluding perishables goods, may, within 30 days from the date of impoundment, apply in writing or in person to the authorised official for the return of such goods and must attach to the application the relevant receipt issued in terms of regulation 15(4).

(2) Where the owner of the goods or property fails to claim his or her goods or property within 30 days from the date of impoundment the Council may sell such goods in terms of regulation 18.

#### **Sale of impounded goods or property**

18. (1) If impounded goods or property have not been claimed in terms of regulation 16 or 17, the Council may sell such impounded goods or property by public auction or other means approved by the Council.

(2) If there is a sale of any impounded goods or property in terms of these regulations the proceeds of goods or property sold, less the expenses incurred by the Council in respect of the removal and impounding of such goods or property, must, upon presentation of the relevant receipt issued in terms of regulation 15(4), be paid to the owner of such goods or property when such goods or property were impounded or if the owner is unknown to the person who had lawful possession of the goods or property when they were impounded.

(3) If the proceeds of the sale of goods or property contemplated by this regulation are not sufficient to defray the expenses incurred by the Council in respect of the removal and impoundment of such goods or property, the owner of such goods or property remains liable to the Council for payment of so much of such expenses as are not defrayed by such proceeds.

#### **Forfeiture of proceeds**

19. If the owner of goods or property impounded in terms of regulation 15 fails to claim the proceeds of the goods or property sold in accordance with regulation 18 within a period of three months after the date that the goods or property were sold, the proceeds are forfeited to the Council.

CHAPTER 3  
BUSINESS REGISTRATION

**Prohibiting on conducting of business**

**20.** (1) A person may not conduct a business within the local authority area, unless a business registration certificate has been issued to him or her.

(2) A person who contravenes or fails to comply with subregulation (1) commits an offence and is liable on conviction to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months.

**Application for certificate of fitness in respect of premises**

**21.** (1) Before applying for a business registration certificate, a person who intends to conduct a business within the local authority area must apply to the environmental health officer for a certificate of fitness in respect of each business premises on which that business is to be conducted.

(2) An application for a certificate of fitness must -

- (a) be made on the form determined by the Council;
- (b) be submitted to the environmental health officer for consideration;
- (c) be accompanied by the fee determined by the Council in terms of section 30(1)(u) of the Act;
- (d) be accompanied by any other information as the environmental health officer considers necessary for purposes of making a decision; and
- (e) where an application for a certificate of fitness is made for the conducting of a noxious business, be accompanied by -
  - (i) a statement stating the nature of the noxious business to be conducted;
  - (ii) particulars relating to the nature of materials or equipment to be used in connection with the business;
  - (iii) particulars relating to any processing of any materials;
  - (iv) particulars relating to the equipment to be installed or used on the business premises, including the number, type and capacity of the equipment;
  - (v) particulars relating to the measures to be taken for purposes of public health and safety;
  - (vi) an environmental impact assessment undertaken in relation to the noxious business to be conducted on the business premises; and
  - (vii) proof of publication of the notice referred to in regulation 22.

**Notice calling for objections in respect of noxious business applications**

**22.** A person who intends to conduct a noxious business within the local authority area must publish a notice in a daily newspaper circulating widely in the local authority area -

- (a) stating that the application in terms of regulation 21 has been made to the environmental health officer;
- (b) stating the particulars of the noxious business;
- (c) indicating the place at which and the times and dates during which the application and supporting documentation may be inspected; and
- (d) calling upon persons to lodge written objections and or make representations to the environmental health officer.

#### **Decision of environmental health officer**

**23.** (1) The environmental health officer must, when considering an application made under regulation 21, take into account -

- (a) whether the conducting of the type of business on the business premises is in conflict with any applicable laws relating to public health and safety or is in conflict with the applicable town planning scheme or conditions applicable to that premises;
- (b) any objection raised or representation made in pursuance of a notice published under regulation 22;
- (c) any representation made in support of the application; and
- (d) whether the provisions of regulation 22 have been complied with.

(2) The environmental health officer may after receiving an application in terms of regulation 22 and after considering the matters referred to in regulations 21 and 22 and this regulation -

- (a) grant the application, with or without conditions and issue to the applicant the certificate of fitness;
- (b) request the applicant to provide more information within a specified time; or
- (c) refuse the application and give written reasons.

(3) A certificate of fitness issued in terms of this regulation is valid for a period of 12 months from the date of issue or until such time that the -

- (a) premises, in respect of which the certificate of fitness is issued, undergoes any form of alteration, other than alterations approved in accordance with regulation 28 or which is necessary for the purpose of maintaining the business premises concerned; or
- (b) nature of the business, for which a certificate of fitness is issued, changes in any way.

(4) The holder of a certificate of fitness may, 30 days before the date of expiry of the certificate, apply to the environmental health officer for the renewal of the certificate and regulations 21, 22 and this regulation apply with necessary changes to that application.

**Application for business registration certificate**

**24.** (1) A person may apply to the registration officer for a business registration certificate in the manner provided for in this regulation after a certificate of fitness has been issued to him or her in terms of regulation 23.

- (2) There must be a separate application in respect of each business premises.
- (3) An application for a business registration certificate must be -
  - (a) made on the form determined by the Council;
  - (b) submitted to the authorised official for consideration;
  - (c) accompanied by the fee determined by the Council in terms of section 30(1)(u) of the Act;
  - (d) accompanied by a certified copy of a valid certificate of fitness issued in terms of regulation 23; and
  - (e) accompanied by any other information as may be necessary for purposes of making a decision.

**Issuing of business registration certificate**

**25.** (1) When considering an application for a business registration certificate, the authorised official must satisfy himself or herself that the conditions imposed in respect of the certificate of fitness have been complied with.

(2) After considering an application for a business registration certificate referred to in regulation 24, the authorised official may -

- (a) grant the application, with or without conditions, and issue to the applicant the business registration certificate;
- (b) request the applicant to provide more information within a specified time; or
- (c) refuse the application and give written reasons.

(3) A person to whom a business registration certificate has been issued may only conduct the type of business on the business premises for which the business registration certificate is issued.

(4) A business registration certificate issued in terms of this regulation is valid -

- (a) for a period of 12 months from the date of issue;
- (b) until the certificate of fitness becomes invalid; or
- (c) until the nature of the business for which a business registration certificate is issued changes.

**Application for renewal of business registration certificate**

**26.** (1) The holder of the business registration certificate may, 30 days before the expiry of the certificate, apply for the renewal of the certificate to the authorised official.

(2) The provisions of regulations 24 and 25 apply with necessary changes to an application referred to in subregulation (1).

### **Transferability of certificates**

**27.** (1) Unless authorised in terms of subregulation (2) a certificate of fitness, a business registration certificate or rights granted under a certificate, may not be transferred to another business premises, another person or another business than what is detailed on the certificate.

(2) The holder of a certificate of fitness or a business registration certificate may apply to the environmental health officer or the authorised official to have the -

- (a) certificate of fitness or business registration certificate transferred into the name of another person; or
- (b) name of the business indicated on the applicable certificate of fitness or business registration certificate changed.

(3) The application in terms of subregulation (2) must be made on the form determined by the Council and must be accompanied by the fees determined by the Council in terms of section 30(1)(u) of the Act.

(4) On receipt of an application in terms of subregulation (2) the environmental health officer or authorised official may -

- (a) grant the application, with or without conditions, and issue to the applicant the certificate of fitness or business registration certificate;
- (b) request the applicant to provide more information within a specified time; or
- (c) refuse the application and give written reasons.

(5) Where an application referred to in subregulation (2) is approved, the environmental health officer or the authorised official must effect the change on the certificate of fitness or the business registration certificate.

### **Application for approval to make structural alterations**

**28.** (1) Structural alterations to business premises in respect of which a business registration certificate is issued may only be made with the prior written approval obtained from the authorised official.

(2) An application referred to in subregulation (1) must be made on the form determined by the Council and must be accompanied by -

- (a) a detailed plan of the business premises, showing the existing business premises and the intended structural alterations;
- (b) particulars relating to the construction, lay-out, furnishing, fixtures, fittings and floor coverings to be undertaken or used in the intended structural alterations;
- (c) a certified copy of the certificate of fitness and the business registration certificate issued in respect of the business premises;
- (d) written representations in support of the application; and

- (e) any further particulars as the authorised official may consider necessary.
- (3) After considering an application referred to in subregulation (1), the authorised official may -
- (a) grant the application, with or without conditions and in writing inform the applicant accordingly;
  - (b) request the applicant to provide more information within a specified time; or
  - (c) refuse the application and give written reasons.
- (4) A person who fails to comply with subregulation (1) commits an offence and is liable on conviction to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months.

### **Display of certificates**

**29.** (1) The holder of a certificate of fitness and business registration certificate issued in terms of this Chapter must ensure that the certificates are prominently and conspicuously posted on the business premises at all times.

(2) Where a certificate of fitness or a business registration certificate is issued to a person who goes from place to place or to a particular place with the items for sale, the holder of the certificates must keep the certificates with him or her at all times while carrying out his or her business and must on request exhibit the certificates to an authorised official or a member of the Namibia Police Force.

### **Change of name**

**30.** Where the operating name of a business as stated on the business registration certificate changes, the owner of the business must immediately notify the authorised official and upon payment of a fee determined under section 30(1)(u) of the Act and being satisfied that there have been no other changes in the circumstances of the business, the authorised official may issue a replacement of the business registration certificate.

### **Change of ownership**

**31.** Every holder of a business registration certificate must upon change of ownership of the business in respect of which the certificate has been issued surrender the business registration certificate and certificate of fitness to the authorised official.

### **Reconsideration of application**

**32.** (1) If an application for an business registration certificate or fitness certificate is refused, the applicant may, within 60 days of receipt of the notice referred to in regulation 23 or 25 -

- (a) appear before an authorised official to present his or her case either in person or through a representative; or
- (b) make representations in writing to the authorised official,

to show cause why his or her application must be granted by the authorised official.



(2) After hearing the applicant or the applicant's representative or after receipt of the written representations made by the applicant in terms of subregulation (1), the authorised official must -

- (a) reconsider the application and make a decision in accordance with regulation 23 or 25; and
- (b) within a period of 30 days, after the hearing or receipt of the written representations, in writing inform the applicant of his or her decision.

(3) The authorised official must provide the applicant with written reasons for the decision made under subregulation (3) within seven days from the date of the making of the decision.

#### **Temporary certificates of fitness and business registration certificate**

**33.** (1) A person who intends to conduct a business for a limited period may, on the form determined by the Council and upon payment of the fee determined by Council under section 30(1)(u) of the Act, apply for a temporary certificate of fitness and a temporary business registration certificate.

(2) The provisions of regulations 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31 and 32 apply with the necessary changes to an application for a temporary business registration certificate and certificate of fitness.

(3) The environmental health practitioner or the authorised official must endorse upon the certificate of fitness or the business registration certificate issued in terms of these regulations the period for which that certificate is valid.

### CHAPTER 4 GENERAL PROVISIONS

#### **Report of lost or stolen certificates and duplicate certificates**

**34.** (1) Where a certificate issued in terms of these regulations is lost or stolen or is damaged beyond legibility, the holder of the certificate must -

- (a) report such loss, theft or damage to the environmental health officer or the authorised official; and
- (b) apply to the environmental health practitioner or the authorised official for a duplicate of the certificate,

as soon as is reasonably possible after becoming aware of the loss, theft or damage.

(2) An application referred to in subregulation (1) must be made on the form determined by the Council and accompanied by the fee determined by Council under section 30(1)(u) of the Act.

(3) After considering an application referred to in subregulation (1), the authorised official or environmental health officer may -

- (a) grant the application, with or without conditions and issue to the applicant a duplicate certificate;
- (b) request the applicant to provide more information within a specified time; or

- (c) refuse the application and give written reasons.

### **Cessation of business**

**35.** (1) If the holder of a certificate issued in terms of these regulations ceases to conduct the trading or business for which the certificate is issued the holder must inform the authorised official or environmental health officer of such cessation and must submit the certificate to the authorised official or environmental health officer for cancellation within 30 days from the date of ceasing to conduct such business.

(2) The authorised official or environmental health officer must, upon being informed of the cessation contemplated to in subregulation (1) and upon receipt of the certificate, cancel the certificate.

### **Withdrawal or suspension of certificate**

**36.** (1) The environmental health officer or authorised official may cancel or suspend a certificate issued in terms of these regulations for a period as he or she determines if the holder of that certificate -

- (a) contravenes the conditions imposed in respect of the certificate; or
- (b) does or causes anything to be done which is in contravention of a provision of these regulations.

(2) Before cancelling or suspending a certificate in terms of this regulation the environmental health officer or authorised official must -

- (a) give the holder of the certificate 21 days written notice of the proposed action and reasons; and
- (b) invite the holder of the certificate to appear in person or to make written representations to the authorised official or environmental health officer in respect of the proposed action.

(3) Where a certificate is cancelled or suspended in terms of this regulation, the authorised official or environmental health officer must indicate the cancellation or suspension in the business register.

### **Inspections**

**37.** (1) An inspector may at any reasonable time, in terms of section 91 of the Act, enter a place or premises where informal trading is conducted or enter business premises or premises where business is conducted for the purpose of inspecting the place, premises or business premises and any work or process carried out in the place, premises or business premises for purposes of ensuring compliance with these regulations.

- (2) For purposes of inspections, an inspector must -
  - (a) carry upon his or her person an identification card issued by the Council indicating authorisation to carry out inspections for the purpose of these regulations; and
  - (b) when requested to do so, give the identification card to the holder of a certificate in terms of these regulations or to the person found at or in charge of the place, premises or business premises contemplated in subregulation (1).

- (3) For the purpose of ensuring compliance with these regulations an inspector may -
- (a) require a person in possession or in custody of or who has control over documentation required for the purpose of these regulations, or which may serve as evidence of non-compliance with a provision of these regulations to produce the documents;
  - (b) inspect and remove the documents, referred to in paragraph (a) for the purpose of making copies or extracts; and
  - (c) require a person referred to in paragraph (a) to furnish his or her full name and address and produce his or her identification document.
- (4) Where an inspector removes any document for the purpose of subregulation (3)(b), the inspector must issue a receipt for the removed documents and must return the documents within 14 days.

### **Business registers**

**38.** The authorised official must keep a register in which he or she must enter particulars relating to every certificate issued in terms of these regulations.

### **Notices**

**39.** A notice required or permitted to be given in terms of these regulations must be given in accordance with section 93 of the Act.

### **Offences and penalties**

- 40.** (1) A person commits an offence if that person -
- (a) contravenes or fails to comply with a condition imposed in respect of a certificate issued in terms of these regulations;
  - (b) threatens, resists, hinders, interferes with or obstructs an environmental health officer, an authorised official or a member of the Namibia Police Force in the exercise of his or her powers or the performance of functions in terms of these regulations;
  - (c) furnishes false or misleading information to an environmental health officer or authorised official in respect of an application for a certificate or other authorisation in terms of these regulations;
  - (d) furnishes false or misleading information to an environmental health officer, authorised official or member of the Namibia Police Force;
  - (e) holds or presents himself or herself as an authorised official or environmental health officer while not being an authorised official or environmental health officer;
  - (f) wilfully makes an alteration, damages or destroys any certificate issued in terms of these regulations,

and is liable on conviction to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months.

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